

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GERALD BROWN, :

Plaintiff, :

-against- :

ROBERT B. ANESI and POLICE OFFICER :
GREGG PINGATORE, #05094, :

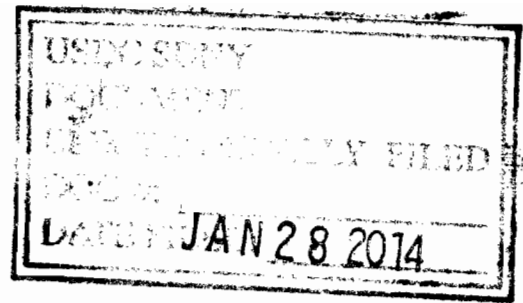
Defendant. :

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GEORGE B. DANIELS, District Judge:

Plaintiff Gerald Brown ("Brown") filed this action on April 6, 2012, and an order of service was issued on April 3, 2013. However, service on the defendants was never effected. By letter dated August 27, 2013, Magistrate Judge Francis advised the plaintiff to submit within two weeks a letter setting forth any reasons why the action should not be dismissed. The plaintiff never responded. Magistrate Judge Francis therefore recommended that the complaint be dismissed without prejudice under Rule 4(m) of the Federal Rules of Civil Procedure.

The Court may accept, reject or modify, in whole or in part, the findings and recommendations set forth within the Report. 28 U.S.C. § 636(b)(1)(C). When parties object to the Report, the Court must make a *de novo* determination of those portions of the Report to which the objections are made. *Id.*; *see also Rivera v. Barnhart*, 423 F. Supp. 2d 271, 273 (S.D.N.Y. 2006). The district judge may also receive further evidence or recommit the matter to the magistrate judge with instructions. *See Fed. R. Civ. P. 72(b)*; 28 U.S.C. § 636(b)(1)(C). The Court need not conduct a *de novo* hearing on the matter. *See United States v. Raddatz*, 447 U.S. 667, 675-76 (1980). Rather, it is sufficient that the Court "arrive at its own, independent



MEMORANDUM DECISION
AND ORDER
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conclusions” regarding those portions to which objections were made. *Nelson v. Smith*, 618 F. Supp. 1186, 1189-90 (S.D.N.Y. 2005) (quoting *Hernandez v. Estelle*, 711 F.2d 619, 620 (5th Cir. 1983)). When the parties make no objections to the Report, the Court may adopt the Report if “there is no clear error on the face of the record.” *Adee Motor Cars, LLC v. Amato*, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005) (citation omitted).

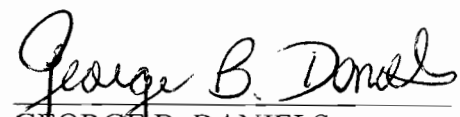
In his Report, Magistrate Judge Francis advised the parties that, pursuant to 28 U.S.C. § 636(b)(1) and Federal Rules of Civil Procedure 72, 6(a), and 6(d), the parties shall have fourteen (14) days the date of the Report to file written objection and that failure to file timely objections to the Report would result in waiver of objections and preclude appellate review. Neither party objected to the Report. As there is no clear error on the face of the record, this Court adopts Magistrate Judge Francis’s Report in its entirety.

CONCLUSION

The Magistrate Judge’s Report is adopted in its entirety. The case is dismissed.

Dated: New York, New York
January 28, 2014

SO ORDERED:



GEORGE B. DANIELS
United States District Judge